

II. REMARKS

Claims 1-24 and 46-52 were previously pending in the application, with claims 1 and 13 being the independent claims. Reconsideration of presently pending claims 1-24 and 46-52 is respectfully requested in light of the above amendments and the following remarks.

Claim Rejections – 35 USC § 112

Claim 46 was rejected under 35 USC 112, first paragraph, as allegedly failing to comply with the written description requirement.

Although Applicants believe that the claim as previously presented was allowable, Applicants have amended Claim 46 to recite that “calculating [a price] is based in further part on the number of mask layers,” as described and supported by paragraph 27 of the specification. In light of this amendment, Applicants respectfully request that the Examiner withdraw the rejection.

Claims 47-48 were rejected under 35 USC 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Although Applicants believe that the claims as previously presented were allowable, Applicants have amended claims 47-48 to address the concerns raised by the Examiner. Claim 47 as amended recites that “the case summary further includes information regarding how the semiconductor industry sale pricing decision affects the level of utilization.” Claim 48 as amended recites “a price for producing a quantity of semiconductor wafers.” In light of these amendment, Applicants respectfully request that the Examiner withdraw the rejections.

In addition, because claims 46-48 are dependent claims, once the 112 issues are resolved, the present remarks base their allowability upon the allowance of their base claim – claim 1. Therefore, the present amendments to claims 46-48 should not require further search or consideration over the prior art.

Independent Claim Rejections – 35 USC § 102

Claims 1 and 13 stand rejected under 35 USC 102(b) as being anticipated by Mori et al. (U.S. Publication No. 2002/0143424, hereinafter referred to as Mori). Applicants respectfully traverse these rejections.

Claim 1 was previously amended to recite “calculating a price based in part on the level of utilization of manufacturing equipment.” Responding to this amendment, the Examiner refers to Mori’s disclosure of determining a price and calculating a delivery date. On page 2 of the Office action, the Examiner referenced portions of Mori’s paragraph 66, reproduced in full below:

[0066] Referring to FIG. 10, description will now be given on bidding data, which is sent from photomask manufacturer’s computer 200 to server 100. The bidding data includes a header including a flag, which represents that the data is the bidding data, the name of photomask manufacturer, the product number, the responded delivery date and the responded price. The photomask manufacturer determines a degree of production difficulty based on the specifications of the photomask included in the received estimation request data, and determines the price. The degree of production difficulty is calculated based on a yield corresponding to the specifications of photomask. The responded delivery date is calculated based on the yield, which depends on the specifications of the photomask included in the received estimation request data, and an operation time of devices used for the production. The devices used for production include a device for drawing a photomask pattern, a defect inspection device and an element size measuring device. The operation time is a sum of operations times of these drawing device, defect inspection device and element size measuring device.

Mori at ¶ 66.

Applicants respectfully submit that the Examiner has not shown where in Mori there is any teaching of “calculating a price based in part on the level of utilization of manufacturing equipment.” Paragraph 66 simply states that “The photomask manufacturer determines a degree of production difficulty based on the specifications of the photomask included in the received estimation request data, and determines the price.” Production difficulty is not the same as “*the level of utilization* of manufacturing equipment” as required in claim 1. Suppose for example that a first device performs an operation that takes one hour, but the operation is performed only once per day, and the device does not perform any other operations during the day. The first device would have a difficult production process, but would not be fully utilized.

Mori’s disclosure in Paragraph 66 of calculating a delivery date also does not pertain to utilization of manufacturing equipment. Even if calculating a delivery date were the same as

calculating a price, Mori's disclosure that calculating a delivery date is based on "an operation time of devices" is different than—and still fails to teach or suggest—"calculating a price based in part on *the level of utilization* of manufacturing equipment" as recited in Claim 1. As Applicants understand Mori, an "operation time" is the length of time a device requires to perform an operation. Thus, an operation time is not the same as a level of utilization. Continuing with the example from the previous paragraph, suppose a second device performs an operation that takes only 30 seconds, but the operation is performed once per minute. The second device, as compared to the first device, would have a relatively shorter operation time, but a relatively higher level of utilization.

Mori also refers to calculating a 'price priority' in at least paragraphs 89, 134 and 142, but those paragraphs indicate that the price priority is based on the photomask manufacturer's price. Thus, Mori fails to teach "calculating a price based in part on the level of utilization of manufacturing equipment." Accordingly, Applicants respectfully submit that independent claim 1 is allowable over the prior art of record and earnestly solicit notice to that effect.

Independent claim 13 similarly recites "calculating a price based in part on a level of utilization." For at least the reasons discussed above, Applicants respectfully submit that Claim 13 is allowable over the prior art of record.

Dependent Claims

Dependent claims 2-12, 14-24, 46-52 were rejected as allegedly being unpatentable over Mori either alone or with one of Katz et al. (U.S. Publication No. 2002/0178077), Kochpatcharin et al. (U.S. Patent No. 7,363,236), and Aday et al. (U.S. Publication No. 2003/0149673).

Applicants note that these dependent claims all depend from and further limit either independent claim 1 or independent claim 13, both of which Applicants have shown above to be allowable over the prior art of record. Accordingly, Applicants respectfully submit that these dependent claims are allowable for at least that reason.

Conclusion

An early formal notice of allowance of claims 1-27 and 46-52 is requested. The Examiner is invited to telephone the undersigned if further assistance is necessary. Deposit account number 08-1394 can be used for any over payments or under payments.

Respectfully submitted,

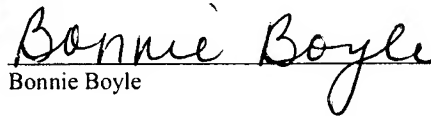


David M. O'Dell
Registration No. 42,044

Dated: September 29, 2008
HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202-3789
Telephone: 972/739-8635
Facsimile: 214/200-0853
Client Matter No.: 24061.126
Document No.: R-206023_1.DOC

Certificate of Service

I hereby certify that this correspondence is being filed with the U.S. Patent and Trademark Office via EFS-Web on September 29, 2008.


Bonnie Boyle